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Chapter 7 Trustee  
7

8 **UNITED STATES BANKRUPTCY COURT**  
9 **CENTRAL DISTRICT OF CALIFORNIA**

10 **SANTA ANA DIVISION**

11  
12 In re Case No. 8:21-bk-11710-SC  
13 JAMIE LYNN GALLIAN, Chapter 7  
14  
15 Debtor.

**CHAPTER 7 TRUSTEE'S REPLY  
MEMORANDUM OF POINTS AND  
AUTHORITIES IN SUPPORT OF  
APPLICATION TO EMPLOY REAL  
ESTATE BROKER AND TO ENTER  
INTO EXCLUSIVE LISTING  
AGREEMENT; AND REQUEST FOR  
JUDICIAL NOTICE IN SUPPORT  
THEREOF**

19 Date: September 13, 2022  
20 Time: 11:00 a.m.  
21 Place: Courtroom "5C"  
411 W. 4<sup>th</sup> Street  
Santa Ana, California 92701

22  
23 TO THE HONORABLE SCOTT C. CLARKSON, UNITED STATES BANKRUPTCY  
24 JUDGE, AND INTERESTED PARTIES:

25 Jeffrey I. Golden, as Chapter 7 Trustee for the bankruptcy estate (the "Estate") of Jamie  
26 Lynn Gallian (the "Debtor"), hereby replies to the Debtor's opposition (*docket no. 208*) (the  
27 "Opposition") to the Trustee's Application to Employ Real Estate Broker Coldwell Banker Realty  
28

1 and Agents William Friedman and Greg Bingham Pursuant to 11 U.S.C. §§ 327 and 328 (*docket*  
2 *no. 162*) (the “Application”), as follows:

3 The Debtor’s Opposition to the Application appears to be based on the Debtor’s mistaken  
4 belief that the Trustee and the Debtor’s estate have no interest in the manufactured home located at  
5 16222 Monterey Lane, Space #376, Huntington Beach, California 92649 (“Property”), which is the  
6 Debtor’s residence, the Debtor’s incorrect interpretation of the Court’s order denying her claimed  
7 exemption in the Property, and the Debtor’s incorrect assumptions on what may or may not happen  
8 in the future with respect to a sale of the Property. As discussed below, the Debtor’s arguments are  
9 without merit and do not support denial of the Application to employ the Broker.

10 1. As an initial matter, the Trustee has a duty to collect and reduce to money property  
11 of the estate for which the Trustee serves. 11 U.S.C. § 704(a). With the Court’s approval, the  
12 Trustee may employ professionals to assist the Trustee in carrying out his duties. 11 U.S.C. §  
13 327(a). Here, the Trustee seeks to employ Coldwell Banker Realty and Agents William Friedman  
14 and Greg Bingham (the “Broker”) to facilitate the sale of the Property and assist the Trustee in  
15 administering the equity in the Property for the benefit of the estate’s creditors. As discussed  
16 below, the Debtor’s estate is the 100% owner of J-Sandcastle Co, LLC (“Sandcastle”), which held  
17 title to the Property on the petition date. The Application clearly establishes that the Broker (and  
18 its agents) is highly qualified to represent the estate in connection with the sale of the Property and  
19 is disinterested as required by 11 U.S.C. §§ 327 and 328. Thus, the standard for employment of the  
20 Broker has been satisfied, and the Court should approve the Application as requested.

21 2. The Debtor’s arguments that the estate has no interest in the Property and that the  
22 Trustee cannot administer the Property (or its equity) are incorrect. On the Petition Date, title to  
23 the Property was vested in Sandcastle, an LLC wholly owned by the Debtor. *See Exemption*  
24 *Order*, docket no. 177, at p. 12 of 12.

25 Pursuant to 11 U.S.C. § 541(a)(1), all of Debtor’s contractual rights and interest in  
26 Sandcastle became property of the estate by operation of law when the Debtor filed bankruptcy.  
27 As a result, on the petition date, the Debtor’s 100% membership interest in Sandcastle became  
28 property of the estate and the Trustee stepped into the Debtor’s shoes, succeeding to all of her

1 rights in Sandcastle, including the right to control it. *Fursman v. Ulrich (In re First Protection,*  
2 *Inc.*), 440 B.R. 821, 830-32 (B.A.P. 9th Cir. 2010). Thus, to the extent that the Trustee is required  
3 to do so, there is no restriction on the Trustee acting as sole member and manager of Sandcastle  
4 and causing Sandcastle to sell the Property, subject to Court approval on notice to the Debtor and  
5 creditors, of course.

6 Moreover, the Debtor caused Sandcastle to deed the Property to herself post-petition.<sup>1</sup> See  
7 Exemption Order, docket no. 177, at p. 10 of 12. Accordingly, whether title is held by Sandcastle  
8 or the Debtor, the Trustee believes that he will be able to transfer title to a third party purchaser  
9 after filing a sale motion,

10 3. The Debtor's additional arguments that there may be insufficient equity in the  
11 Property to permit a sale, some of which arguments are raised only in her declaration attached to  
12 the Objection,<sup>2</sup> are not a basis to deny employment of the Broker. As set forth above, whether  
13 there is equity in the Property is not a basis under 11 U.S.C. § 327(a) to deny the Trustee's  
14 Application to employ the Broker. The Trustee believes that based on the valuation provided by  
15 the Broker, that there will be equity for creditors. However, the Property has not yet been exposed  
16 to the market and the Trustee needs to employ the Broker and list the Property in order to  
17 determine whether a buyer can be found and whether a sale is warranted. It is also irrelevant for  
18 the Debtor to speculate how the Trustee will address any alleged liens that may be on the Property.<sup>3</sup>  
19 Either the sale motion will address the equity analysis and any purported liens on the Property, or  
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21 <sup>1</sup> The Debtor's reliance on *Patrick A. Casey, P.A. v. Hochman*, 963 F.2d 1347, 1351 (10th Cir.  
22 1992) is misplaced. Sandcastle's transfer of title to the Property to the Debtor post-petition is not  
23 akin to a debtor's post-petition invention of a patentable device that did not exist on the petition  
24 date, which was the issue in *Casey*. Rather, here, on the petition date the Debtor owned a  
25 membership interest in Sandcastle, and Sandcastle was on title as the owner the Property. The  
26 Debtor then caused Sandcastle post-petition to transfer title to the Property to the Debtor.

27 <sup>2</sup> Concurrently herewith the Trustee is filing evidentiary objections to the Debtor's declaration.

28 <sup>3</sup> The Trustee will, however, point out that the Debtor neglects to inform the Court that the Debtor  
29 is also the 100% owner and manager of J-Pad, LLC, which purports to have a lien on the Property.  
30 See docket nos. 38, 39, and 72 (Debtor's amended schedules). The Debtor's ownership interest and  
31 rights in relation to J-Pad, LLC, also became property of the estate when the Debtor filed  
32 bankruptcy.

1 the Property will not be able to be sold. The Debtor never sought or obtained a stay of the  
2 Exemption Order, so that order is effective at this time, and there is no exemption in the Property.  
3 The Debtor should not be given a free stay while her appeal is pending.

4 Based upon the foregoing, the Court should disregard the Debtor's Opposition, approve the  
5 Application and authorize the Trustee to employ the Broker, as the Trustee's real estate broker to  
6 list and aid the Trustee in marketing and selling the Property. The Trustee further requests such  
7 other relief as is just and proper.

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9 DATED: September 6, 2022

DANNING, GILL, ISRAEL & KRASNOFF, LLP

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By: /s/ Aaron E. de Leest  
12 AARON E. DE LEST  
13 Attorneys for Jeffrey I. Golden, Chapter 7 Trustee

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1 **REQUEST FOR JUDICIAL NOTICE**

2 Jeffrey I. Golden, as Chapter 7 Trustee for the bankruptcy estate (the “Estate”) of  
3 Jamie Lynn Gallian (the “Debtor”), requests that the Court take judicial notice of the following  
4 facts.

5 1. The Debtor’s amended schedules list that the Debtor is the 100% owner of  
6 J-Sandcastle Co, LLC and J-Pad, LLC. *See* docket nos. 38, 39, and 72 (Debtor’s amended schedule  
7 A/B, # 19).

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9 DATED: September 6, 2022 DANNING, GILL, ISRAEL & KRASNOFF, LLP

10

11

By: /s/ Aaron E. de Leest  
12 AARON E. DE LEEST  
13 Attorneys for Jeffrey I. Golden, Chapter 7 Trustee

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## PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is 1901 Avenue of the Stars, Suite 450, Los Angeles, CA 90067-6006.

A true and correct copy of the foregoing document entitled (*specify*): CHAPTER 7 TRUSTEE'S REPLY  
MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF APPLICATION TO EMPLOY REAL ESTATE  
BROKER AND TO ENTER INTO EXCLUSIVE LISTING AGREEMENT; AND REQUEST FOR JUDICIAL NOTICE IN  
SUPPORT THEREOF will be served or was served **(a)** on the judge in chambers in the form and manner required by LBR 5005-2(d); and **(b)** in the manner stated below:

**1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF):** Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On September 6, 2022 I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

Service information continued on attached page.

**2. SERVED BY UNITED STATES MAIL:** On September 6, 2022, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

Service information continued on attached page.

**3. SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL (state method for each person or entity served):** Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on September 6, 2022, I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

Service information continued on attached page.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

September 6, 2022  
\_\_\_\_\_  
Date

Beverly Lew  
\_\_\_\_\_  
Printed Name

/s/ Beverly Lew  
\_\_\_\_\_  
Signature

ADDITIONAL SERVICE INFORMATION (if needed):

**1. SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING ("NEF")**

Aaron E DE Leest on behalf of Trustee Jeffrey I Golden (TR)  
adeleest@DanningGill.com, danninggill@gmail.com;adeleest@ecf.inforuptcy.com

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Robert P Goe on behalf of Plaintiff The Huntington Beach Gables Homeowners Association  
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D Edward Hays on behalf of Plaintiff Houser Bros. Co.  
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Valerie Smith on behalf of Interested Party Courtesy NEF claims@recoverycorp.com

United States Trustee (SA) ustpregion16.sa.ecf@usdoj.gov

**3. SERVED BY OVERNIGHT MAIL**

Debtor, in pro per Jamie Lynn Gallian 16222 Monterey Lane, Space #376 Huntington Beach, CA 92649	The Honorable Scott C. Clarkson U.S. Bankruptcy Court 411 W. Fourth Street, Suite 5130 Santa Ana, CA 92701
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